UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,920	06/29/2005	Wy Mun Kong	Q83222	3343

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EXAMINER
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ART UNIT	PAPER NUMBER
2626	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	10/540,920	KONG ET AL.
	Examiner	Art Unit	
	JESSE S. PULLIAS	2626	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>05 February 2009</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

    b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

    Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☒ The Notice of Appeal was filed on <u>25 February 2009</u>. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b) ☐ They raise the issue of new matter (see NOTE below);

    (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

    NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/David R Hudspeth/
Supervisory Patent Examiner, Art Unit 2626

Continuation of 11. does NOT place the application in condition for allowance because:

The remarks filed 03/03/09 have been carefully considered but are not persuasive. The applicant argues on page 3-4 that in Rankin, the plurality of persons do not have "respective identifiable locations" because position-related advertising or messages to plural users are broadcasted without regard to the respective identifiable location of each user. In other words, in Rankin, the location information describes the location of what Rankin calls a "transport beacon" which travels on a "transport platform" such as a bus or ship (See [0012] and [0013]). The user terminal, which Rankin describes as a mobile phone, PDA or laptop, which is "personal to the user", communicates with the beacon (see [0012]). The applicant's argument seems to be that because the users are all located on the transport platform, e.g. the bus, the location of the bus is not a "respective" identifiable location, because the location is common to everyone on the bus. The examiner believes a fair interpretation of the word "respective" to be "particular, or separate". Claim 1 requires "each of a plurality of persons having respective identifiable locations". The location of the transport platform may be fairly considered to be a "respective identifiable location" because the current location of the transport platform is particular or separate to its current position along a route. For example, in [0067], travelers on a bus have "respective identifiable locations" which are spaced apart at various distances as the bus proceeds along the route. The locations are "respective" in the sense that each location is particular or separate, for example, in terms of GPS position. Each of the plurality of persons on the bus has the same "respective" identifiable location because they are on the bus. In other words, each passenger on the bus has a particular and separate location that changes with respect to time as the bus travels. Even if one were to interpret "respective" such to require a particular and separate location of each user is required in claim 1, the claim would still not be patentably distinct from Rankin, who teaches in [0095], tagging messages from a particular user with a specific location. "Such message tagging may also be useful for user terminals receiving messages left by other users to enable selection of only recent messages or those from particular persons known to be in specific locations". This explicitly teaches "respective identifiable locations" in the same sense as the applicant's interpretation because the location tags are particular to the user and specific to the particular user's location.

The applicant argues further on page 4 that Rankin does not teach a selection and indication of a respective language by a user, and storage of the language choice of a user in conjunction with said respective identifiable locations. As indicated on page 4 of the Final Rejection, while not specifically mentioned, there is sufficient evidence in paragraphs [0029] and [0067] to conclude that these limitations are implied, or at least suggested by Rankin. A careful look at [0029] shows that in contrast to what is alleged by the applicant on page 4, "broadcasting" is never mentioned. Nor is "a broadcast in several language" or "plural concurrently broadcast messages". Rather the transmitted data is referred to as "personalized data services and adverts for trailers in the form of data relating to one or more geographical positions, optionally including public address or news announcements in different user-terminal-selectable languages, and on the other hand sending user-specific data to the service operator." This suggests that the personalized data services and adverts are in a user-terminal selectable language, since it would be extremely unlikely to transmit the personalized data and adverts in a language different from the public address or news announcements. It is much more likely the public address or news announcements are included as part of the personalized data services. Either way, "sending user-specific data to the service operator" suggests sending the user-terminal selected language to the transport beacon. Furthermore, in [0067] Rankin teaches "the above may be personalized in terms of the messages sent to individual user terminals, for example to reflect individual language preferences" which at least suggests "storing said language choices in a database in conjunction with said respective identifiable locations." The applicant's assertion on page 4 that Rankin teaches nothing more than changing channels to pick up one of plural concurrently broadcast messages is not convincing because it is inconsistent with these paragraphs.

In response to the arguments on pages 6-7 regarding claim 2, Poch discloses those of said persons who do not choose a language are assigned a language choice being a principal language, see Col 2-3 lines 59-10, as well as the final rejection, page 11. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Rankin such that those of said persons who do not choose a language are assigned a language choice being a principal language, in order to avoid needless and arbitrarily translating, as explained on page 11 of the final rejection.

In response to the arguments on page 7 regarding claim 5, as noted above, Rankin does not disclose or suggest "several concurrent broadcasts". In [0067], Rankin teaches "the above may be personalized in terms of the messages sent to individual user terminals, for example to reflect individual language preferences" which at least suggests the user language choice, selected at the user terminal, is received by the source unit sending the message, in order to personalize the message to the correct language. Further, the messages received in Rankin can be fairly considered to be part of a "personal address system" for at least the reason that the messages are personalized and transmitted to a unique user.

In response to the arguments on page 9 regarding claim 13, in [0067] Rankin teaches "the above may be personalized in terms of the messages sent to individual user terminals, for example to reflect individual language preferences" which at least suggests "storing said language choices in a database in conjunction with said respective identifiable locations."

The remaining arguments are the same or similar to arguments that have already been addressed, or simply summarize the dependent claim rejections from the final rejection, and so are found to be non-persuasive for the same or similar reasons as those above..